

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GARY D. ) APPEAL NO. 06-A-2480  
FOUNTAIN from the decision of the Board of ) FINAL DECISION  
Equalization of Benewah County for tax year 2006. ) AND ORDER

**RURAL RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 18, 2006, in St. Maries, Idaho, before Board Member Vernon L. Driver. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellant Gary Fountain did not attend the hearing but did submit a written brief. Assessor Teresa Jeffrey and Tax Commission Consulting Appraiser Ron Craig appeared for Respondent Benewah County. This appeal is taken from a decision of the Benewah County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP46N02W170400A.

**The issue on appeal is the market value of a rural residential property.**

**The decision of the Benewah County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$189,000, the improvements' valuation is \$8,820, totaling \$197,820. Appellant requests the land value be reduced to \$108,807, and the improvements' value be reduced to \$6,203, totaling \$115,000.

The subject property is a five (5) acre parcel with approximately 280 feet of frontage along the St. Joe River near St. Maries, Idaho.

Appellant's submitted brief was dated August 13, 2006. A fee appraisal, dated March 7, 2005, was submitted to the BOE and is also part of the record on appeal.

In the brief there are claims that where the Assessor made no physical property inspection, the County's appraisal is arbitrary and not based on uniform valuation. Idaho Code

Section 63-602 was referenced. Appellant contends the restriction imposed on the lower St. Joe River by the Coeur d'Alene Tribe created an inequity in affected assessments, and subject's high assessment should be rescinded. Idaho Code Sections 63-207, 63-208 and 63-602(f) were referenced.

The fee appraisal offered into evidence used 2004 sales as comparables. The County did not dispute the validity of the fee appraisal but did contend that older 2004 sales should be adjusted for time, to current the January 1, 2006 assessment date. The summary fee appraisal report compared three sales to subject and made adjustments for front footage and a \$10,000 adjustment for personal property. The adjusted prices ranged from \$103,000 to \$119,000.

The County submitted an exhibit to reflect sales and resales of river front properties in close proximity to subject. There were 17 sales of which 4 were resales. The resales demonstrated increasing prices on river front property. The suggested market inflation rate was 13% to 36%. The County applied a 3% per month adjustment to time adjust older sale prices.

Other sales analysis indicated river frontage in a subdivision with amenities sold for approximately \$1,200 per front foot. The County used \$625 per front foot on non-subdivision properties then adding back the value for amenities or site improvements.

The County responded to Appellant's concern regarding the Tribal restrictions on the lower St. Joe River. It contends the restrictions are "on the water only" and do not affect land usage. According to the County's sales analysis there is no negative affect on lower river front properties.

There was a conflict regarding subject's front footage. The Fee Appraiser estimated 300 front feet and the County estimate was 280 front feet, which smaller size was used in the 2006 assessment.

## CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code Section 63-208. Rules pertaining to market value – Duty of Assessor. Rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes.

Idaho Code Section 63-201(10) defines market value:

“Market Value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent's evidence demonstrates subject's assessment is based on current or time-adjusted sales information. The Board finds the assessed value does not exceed market value, nor has the assessment otherwise been demonstrated to be in error.

Idaho Code § 63-511(4) - Appeals from county board of equalization, provides:

In any appeal taken to the board of tax appeals or the district court pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the board of equalization erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the board of equalization. *A preponderance of the evidence shall suffice to sustain the burden of proof.* The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The board of tax appeals or the district court shall render its decision in writing, including therein a concise statement of the facts found by the court

and the conclusions of law reached by the court. The board of tax appeals or the court may affirm, reverse, modify or remand any order of the board of equalization, and shall grant other relief, invoke such other remedies, and issue such orders in accordance with its decision, as appropriate. (*Emphasis added.*)

Although Appellant did offer an independent fee appraisal, the comparable sales were dated for the relevant appraisal time and no corresponding time adjustment was made. The suggested restrictions imposed on the lower St. Joe River were not explained or well documented in the record. Purported inequities resulting from the restrictions was not supported or specifically quantified in relation to subject. Had Appellant been present for hearing, perhaps further information would have been offered for the Board's consideration. Little information concerning the improvements value claim was in record.

Appellant has not demonstrated by a preponderance of evidence that the relief claimed is warranted. Therefore this Board will affirm the decision of the Benewah County Board of Equalization.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Benewah County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 28th day of February , 2007.